

1888-005 Chancery Causes: Thomas J. Ball vs. William Anderson &
Lee Co.

Poteet

Ch-Debt

T-Property

To the Hon H. S. K. Morison Judge of the Circuit
Court of Lee County Virginia:

Humbly complaining your Orator Thomas
J. Ball would respectfully represent, that
about the day of 1888 One William And-
erson obtained a judgment at law before one
Mr. A. Owens a Justice of the peace for said county
against your Orator and one Harry T. Ferguson
his surety for the sum of \$90.00 with legal interest
thereon from the 25th day of Dec. 1887, till paid
and the costs, amounting to \$

Your Orator further states that on the day
of 1888 the said Justice of the peace issued
an execution on said judgment at law, against
your Orator and said Ferguson for the amount
of said judgment and cost. And placed the
same in the hands of one Columbus Potut a
Constable of said county to be lived and collected
according to law. And on or about the 13th day of
March 1888, said Potut as such Constable seized said
execution so issued on said judgment, upon a raft
of Poplar Saw-logs now lying in Powell's river near
the Old Chuck House and ready to be run to market
on the first high water that will admit thereof, and
which logs so seized on, had before the time hereafter
stated, belonged to your Orator

Your Orator now states that said judgment and
the execution which was issued thereon, should be

perpetually enjoined, and all proceedings stayed thereon as he will now show to your Honor.

The note on which said judgment was rendered was executed by your Orator and H. T. Ferguson as his surety to said Wm. Anderson for the price of a yoke of cattle subsequently used by your Orator for logging purposes, and the same became due and payable Dec. 25 1887.

In the month of Jan'y 1888 your Orator contracted and sold to the said William Anderson two rafts of Poplar saw logs in Sawalls river rafted together and fixed ready to be run down the river to Market at six dollars and twenty five cents for each thousand feet of lumber (board measure) therein, and in consideration thereof, the said Wm. Anderson was to deliver to your Orator as a part of the purchase price of said logs, the said note on which said judgment was rendered. He was then to pay and settle a debt owing by your Orator to Dock Anderson and he was then to pay your Orator enough money to pay off any small debts that might be pressing him, and the balance he was to pay your Orator as soon as said timber could be run down the river.

Your Orator now states that in this transaction he had fully paid said note on which said judgment was rendered, but notwithstanding this fact, which the said William Anderson well knew, he placed said note in the hands of said Petitt and caused him to warrant your Orator and said Ferguson thereon, and the

said warrant was returned before said Owens for trial.

On the day set for the trial thereof your Orator appeared before said justice early in the morning and remained at his house, until nearly night and in the mean time your Orator informed him of the manner in which said note had been paid, and that there was not one farthing due thereon. But as said sale of logs, was one which required some skill and experience in its fair and legal construction, and the sum in controversy exceeding twenty dollars, your Orator in the exercise of a legal right which the statute confers upon him, thereupon demanded of said justice before trial that said cause be sent to the County Court of Lee County for trial therein. And after making this demand and remaining there until nearly night and no action had therein, your Orator returned home, supposing said justice would do his plain and bounden duty under the facts of the case. But instead of sending said cause to the County Court for trial and in the absence of your Orator and without hearing his evidence of payment, said justice proceeded to, and did render judgment against your Orator and said Ferguson, and issued execution thereon which has been issued as aforesaid.

Your Orator is advised that the statute under which said demand was made, is mandatory and leaves the justice without any discretion in the premises & that a judgment thus rendered is illegal and will

be so held by a court of equity and all further proceedings thereunder perpetually inhibited and enjoined and to obtain that end is the object of this bill.

The premises considered your Orator prays that said W^m Anderson & Columbus Potut be made defendants to this bill and be required to answer the same on oath. And upon a hearing thereof a decree be entered perpetually enjoining and inhibiting all further proceedings on said judgment at law, and if deemed appropriate and necessary that a trial at law be ordered to be had at the bar of the court, or of the county court, and your prays for all general relief my countrymen's writ of *habeas corpus* with injunction enclosed therein issue &c.

A. I. Pridemore

I do swear that the facts and statements in the foregoing bill so far as made on my own knowledge are true and so far as made on information derived from others I believe them true so help me god.

J. J. Ball

Sworn to before me. March 15 1888

H. J. Morgan Court.

C 5.70
 S 1.00
\$6.70

1888 Apr. Bill filed
 Spd Exd. & D. N.
 " May & June Contd.
 " July dismissed
 by Plaintiff

Thomas J. Ball (M & P)

Bill

Wm. Anderson & Co.

Injunction granted
 enjoining to the prayer of
 the bill restraining and
 inhibiting the said Wm.
 Anderson & Columbus Potitt
 from collecting and all
 other persons from proceed-
 ing to enforce said levy or
 in anyway collect said
 & censure or enforce said
 judgment till the future
 order of the Circuit Court
 of Lee County Va.

But this injunction
 is not to be operative un-
 till the complainant or
 some one for him has
 executed bond before the
 Clerk of the Circuit Court
 of Lee County in the penal-
 ty of \$150.00 conditioned
 to pay all costs and dam-
 ages sustained by any per-
 son should this injunction
 be hereafter dissolved.
 March 15th 1888.

C. T. Duncan
 To Clerk, Circuit Court
 Lee County Va.

Know all men by these presents
that we Thos. J. Ball and
are held and firmly bound unto
the Cometh of Va in the just & full
sum of \$150.⁰⁰, ~~and~~ for the prompt
payment thereof well & truly to be
made unto the said Cometh, we
each bind ourselves heirs &c
and we as to this bond waive
our homestead exemptions
virtues of our hands and seals
this the 15th March 1888,

The conditions of the above
obligation is such that whereas
the above bound Thos. J. Ball
has this day obtained an injunction
restraining & inhibiting the collection
of the Judgment mentioned in the
Bill until the future orders of
the Circuit Court for Lee County

Now therefore should the above
bound Thos. J. Ball or some
one for him pay all costs and
damages sustained by any person
should this injunction be hereafter
dissolved, and the costs due ^{and}
to become due the officers of the
Court in this cause, then this

obligation to be void otherwise to
remain in full force.

J. J. Ball

A. T. Ferguson
as Security

Thomas J. Ball

vs
J. J. Ball

Wm. C. Anderson et al

Filed March 16th

1888

J. J. Ball Attorney

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

Wm. Anderson
and C. C. Tate

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in *April* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *them* by *Thos. J. Ball*

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *15th* day of *March* 18*88*, in the 11*2* year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

The proper affidavit having been made
and the bonds required in the order of Sequestration
having been executed, The Defts, Mrs. Anderson &
C. L. Tateet are restrained and inhibited from
collecting the Judgt or enforcing the levy mentioned
in the Decree till the future order of the
Circuit Court for Lee County

J. A. G. Hyatt & Co.

(23)

Thomas J. Ball

Sherriff of Lee County, Virginia

1000

Mr. Anderson

Lo April Rules 1888

Executed by
J. B. Walker, Scl-
for R. L. Exampy

March 24

Witness my hand and seal of the Court at the first Monday

in

Witness J. A. G. Hyatt, Clerk of said Court at the Court House

Clerk